

Clean Water State Revolving Fund Operating Agreement

**Between
The State of Oregon
Department of Environmental Quality
and
The United States
Environmental Protection Agency
Region 10**



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Section 1.0 General

The State of Oregon first established its "Water Pollution Control Revolving Fund" in 1987 under Oregon Revised Statutes (hereinafter, ORS) 468.423 - 468.440. Oregon Administrative Rules (hereinafter, OAR) establish that the Water Pollution Control Revolving Fund is called the Clean Water State Revolving Fund (hereinafter, CWSRF). State statute authorizes Oregon's Department of Environmental Quality (hereinafter, DEQ) to administer the CWSRF program. The Oregon Environmental Quality Commission adopted administrative rules under OAR Chapter 340, Division 54 that establish procedures of the CWSRF Loan Program. The State of Oregon certifies that state statute grants the powers and authorities necessary to implement and administer the CWSRF program that are consistent with the Clean Water Act (hereinafter, CWA) and applicable regulations (see appendix A).

The purpose of the CWSRF is to provide financial assistance for the construction, replacement or improvement of wastewater treatment works that are publicly owned, for the implementation of a management program for nonpoint sources of water pollution, and for the development and implementation of a comprehensive conservation and management plan for estuaries designated under the national estuary program. This financial assistance may be in the form of direct loans, the purchase or refinancing of debt obligations incurred after March 7, 1985, and other types of authorized assistance, in accordance with 40 CFR §35.3120, and as described in Section 8.1 of this Operating Agreement.

This Operating Agreement (hereinafter, agreement) establishes policies, responsibilities, and procedures pursuant to the Code of Federal Regulations (hereinafter, CFR) under 40 CFR §35.3130(b) and defines the manner in which the CWSRF program will be administered and implemented by the State of Oregon DEQ and supported by the United States Environmental Protection Agency Region 10 (hereinafter, EPA). This agreement replaces the previous CWSRF operating agreement between DEQ and EPA that was effective October 21, 1993.

The DEQ Director and the EPA Regional Administrator hereby agree that this agreement applies to administration and implementation of the CWSRF loan program by DEQ pursuant to the Clean Water Act, applicable federal regulations, Oregon Revised Statutes and the Oregon Administrative Rules. The DEQ Director and the EPA Regional Administrator hereby agree to maintain a high level of cooperation and coordination between DEQ and EPA in a partnership to assure successful and effective administration of the Oregon CWSRF Loan Program. In this partnership, EPA will provide DEQ, as EPA resources allow, technical and other assistance on Oregon CWSRF program matters, as requested.

EPA and DEQ agree that this agreement does not create any right or benefit, substantive or procedural, enforceable by law or equity, by persons who are not party to this agreement, against DEQ or EPA, their officers or employees or any other person. This agreement does not apply to or direct any other person outside of DEQ or EPA.

The Oregon state laws, statutes, and rules cited in this agreement refer to the version in effect on the date this agreement is executed.

DEQ and EPA hereby agree that this agreement may be modified as necessary to ensure consistency with the CWA, federal program requirements, and state statutes. Where there is a statement in this agreement that differs from a statement in a CWSRF capitalization grant awarded by EPA to DEQ, the capitalization grant prevails.

Section 2.0 Authorization

The authority for this agreement is under the CWA, Title VI, sections 601 - 607; 40 CFR 35.3130(b); and ORS 468.423 - 468.440. In accordance with 40 CFR §35.3130(b), at the option of the State, the organizational and administrative framework and those procedures of the CWSRF program that are not expected to change annually may be described in an operating agreement. EPA will incorporate this agreement by reference in the annual capitalization grant agreement between EPA and DEQ, and DEQ will incorporate this agreement by reference in the State's CWSRF Intended Use Plan (hereinafter, IUP). Therefore, this agreement streamlines the capitalization grant process.

Section 3.0 Program Responsibilities

3.1 DEQ Responsibilities

DEQ will administer and implement the CWSRF program in accordance with the procedures established in this agreement and in conformance with applicable state and federal regulations. DEQ agrees to:

1. Develop and maintain the legal authority and the resources required to carry out all aspects of the Oregon CWSRF loan program, including the technical, environmental, and financial requirements as established or referenced in this agreement.
2. Ensure EPA is kept informed and up-to-date regarding the development of draft and final CWSRF program policy documents, strategies, statutes, administrative rules, and technical guidance.
3. Revise Oregon's CWSRF loan program, including state regulations, as needed to conform to new CWSRF federal regulations.
4. Complete and submit a capitalization grant application to EPA if funds are available. The application must include a copy of the current IUP.
5. Accept a capitalization grant payment in accordance with a payment schedule jointly agreed upon by DEQ and EPA pursuant to the CWA section 601(b).

6. Develop an IUP at least annually and in accordance with OAR 340-054-0025 that includes a Project Priority List, and provide notice and an opportunity for public comment on proposed changes to the IUP. DEQ will also notify all applicants whose projects are included in the proposed IUP. DEQ must submit each update of the IUP to EPA.
7. Enter into loan agreements in an amount equal to 120 percent of each capitalization grant payment received (that is made available through the Automated Clearinghouse system) within one year of receipt of the payment. DEQ must include projected schedules for commitment of funds to specific projects in the IUP.
8. Commit funds to new projects or as an increase to existing projects in accordance with the CWSRF program administrative rules in OAR 340-054, and expend and disburse all monies in an expeditious and timely manner.
9. Conduct reviews of potential environmental impacts of all CWA section 212 construction projects, including nonpoint source pollution control (CWA section 319) and estuary protection (CWA section 320) projects that are also CWA section 212 projects.
10. Assess annually the financial integrity of the CWSRF by reviewing at a minimum the fund balances, sources and uses of funds, and repayment revenue stream.
11. Ensure fiscal controls, accounting, and audit procedures conform to "generally accepted government accounting standards" to properly account for payments received by the CWSRF, disbursements made by the CWSRF, and balances at the beginning and end of the accounting period.
12. Require CWSRF loan recipients to maintain project accounts in accordance with "generally accepted government accounting standards." This requirement will be implemented through a condition in the loan agreement.
13. Provide notice to all CWSRF loan recipients that they are required to make their records available for EPA review, if so requested by EPA.
14. Require loan recipients receiving financial assistance from the CWSRF to comply with all applicable federal and state regulations. These federal regulations include complying with the cross-cutting federal authorities for those projects and activities whose cumulative CWSRF funding equals the amount of the capitalization grants awarded to DEQ.
15. Withhold financial assistance from any loan recipient if its project is not consistent with plans developed under the CWA sections 319 or 320.
16. Withhold financial assistance to any borrower if DEQ has not received and reviewed the applicant's "Preaward Compliance Review Report," EPA Form 4700-4.

17. Provide EPA access to all DEQ CWSRF files within a reasonable timeframe after requested by EPA for audit or review. Files routinely requested by EPA in its oversight capacity include but are not limited to complete project files, financial records, inspection reports, environmental review checklists, engineering documents, proposed bid specifications, and documentation of compliance with cross-cutting federal authorities.
18. Input all nationally required data elements for every loan agreement into EPA's Clean Water Benefits Reporting System on a quarterly basis unless specified otherwise in the most current EPA guidance.

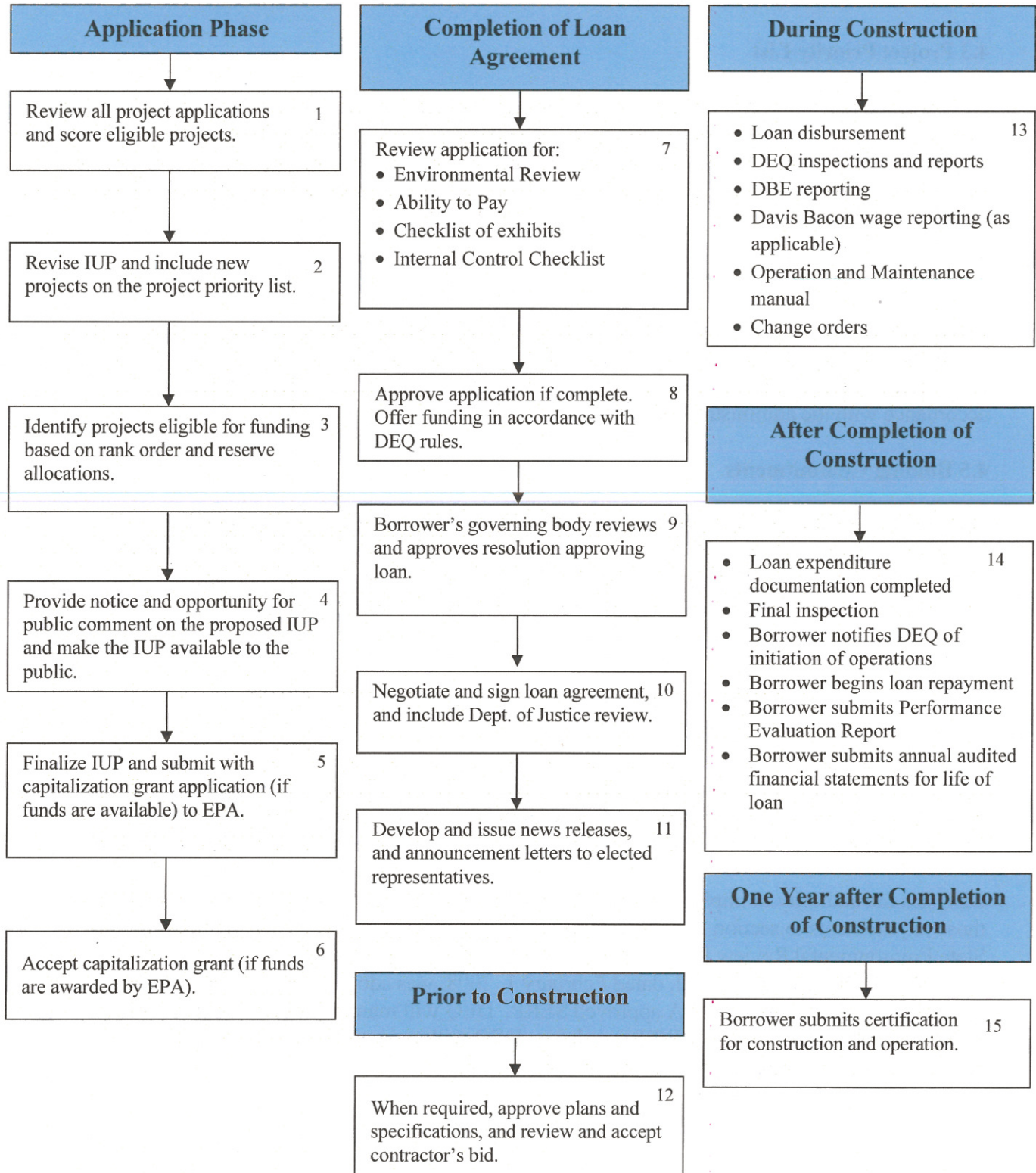
3.2 EPA Responsibilities

EPA will support DEQ's CWSRF program in accordance with the procedures established in this agreement and in conformance with applicable federal regulations. EPA agrees to:

1. Provide funding to DEQ's CWSRF program through the award of available federal capitalization grants. EPA will provide funding based on its acceptance of DEQ's IUP and approval of the capitalization grant application.
2. Make federal capitalization grant funds available to DEQ in accordance with the payment schedule agreed to by EPA and included as a condition of the capitalization grant.
3. At DEQ's request, and as EPA resources allow, provide technical support and assistance to DEQ that will enhance program development activities and program initiatives. This includes, but is not limited to, developing and conducting appropriate training workshops.
4. Keep DEQ informed, to the extent allowed by law, of the development of national CWSRF program policy documents, strategies, performance measures, and related guidance and provide input to DEQ when appropriate.
5. Conduct CWSRF Endangered Species Act (hereinafter, ESA) section 7 reviews and Magnuson-Stevens Fishery Conservation and Management Act, Essential Fish Habitat (hereinafter, EFH) reviews in a timely manner, and provide DEQ with a status summary of Oregon projects under ESA review.
6. Oversee and review DEQ's administration and implementation of the CWSRF Loan Program, as described in Section 9.3 (EPA Program Evaluation) of this agreement, for consistency with the CWA, federal regulations, EPA guidance, capitalization grant conditions, and this agreement. EPA may consider project files, required federal documents and forms, and financial records for its review and assessment.
7. Notify DEQ if noncompliance with a capitalization grant agreement occurs and what corrective action must be taken. If DEQ does not take appropriate corrective action, EPA will withhold funds pursuant to the CWA section 605.

Section 4.0 Program Administration

4.1 DEQ's CWSRF Loan Program Process



4.2 Annual Solicitation

In accordance with OAR 340-054-0025, DEQ will provide notice of the opportunity to submit a CWSRF loan application to public agencies, including but not limited to, watershed councils, counties, soil and water conservation districts, special districts, federally recognized tribal governments, special intergovernmental entities created by units of local government and all of the incorporated cities listed in the current edition of the Oregon Blue Book each year.

4.3 Project Priority List

DEQ will include in the IUP a list of all projects, in both alphabetical and priority order, eligible to receive funding under the capitalization grant. The Project Priority List will be compiled by ranking all eligible water pollution control projects using the CWSRF project ranking criteria established in OAR 340-054-0025. The Project Priority List will be updated according to the schedule established in OAR 340-054-0025.

4.4 Fund Allocation

In accordance with OAR 340-054-0025(6), DEQ will allocate all funds available to borrowers in an amount allowed by the administrative rules. DEQ will also set aside funding for the required reserves and fund projects in those reserves accordingly. Reallocation of funds must occur in accordance with the administrative rules.

4.5 Binding Commitments

DEQ will enter into binding commitments to provide assistance in accordance with the requirements of the CWA, Title VI and other applicable federal requirements. DEQ will provide a proposed commitment schedule of CWSRF funds in the IUP and the actual schedule of commitments in the Annual Report as outlined in Section 7.2 of this agreement.

Section 5.0 State Environmental Review Process

The CWA and 40 CFR §35.3140(a) require reviews of potential environmental impacts of all section 212 (i.e., treatment works) construction projects. Additionally, nonpoint source pollution control (section 319) and estuary protection (section 320) projects that also meet the definition of “treatment works” or “construction” as defined in the CWA must undergo environmental review.

DEQ has the authority to implement the federal environmental review requirements and will apply those requirements to section 212 projects receiving CWSRF assistance in accordance with the State Environmental Review Process (hereinafter, SERP) approved by EPA on January 20, 2008. The CWSRF Procedures Manual, dated February 1, 2008, was adopted in OAR Chapter 340, Division 54 and includes the EPA approved SERP. DEQ will maintain and make available the Procedures Manual on DEQ’s CWSRF website. DEQ will maintain documentation of environmental determinations in accordance with the SERP.

Section 6.0 Cross-Cutting Federal Authorities

6.1 Documentation and Applicability

Projects and activities whose cumulative CWSRF funding equals the amount of the capitalization grants awarded to DEQ are required to comply with applicable cross cutting federal authorities. However, DEQ's February 21, 2008 letter to EPA details a cross cutter backlog as well as a schedule for achieving compliance. To this end, DEQ will apply cross cutters to all projects unless granted a written cross-cutter waiver in advance. EPA and DEQ anticipate updating this agreement once DEQ has rectified the backlog.

Unless EPA has granted a written cross-cutter waiver, DEQ must maintain documentation to confirm that all projects, except planning projects, are in compliance with all CWSRF cross-cutting federal authorities. The current list of these authorities is found on EPA's website:

<http://www.epa.gov/ogwdw000/dwsrf/xcuts.html>

If DEQ adopts cross-cutter determinations from another federal agency, DEQ must maintain documentation in the project file in accordance with EPA's Office of Water memorandum SRF 96-03, dated January 30, 1996. Only projects with the aforementioned level of documentation can be credited toward the cross-cutter backlog detailed in DEQ's February 21, 2008 letter to EPA.

Cross-cutting federal authorities apply independently to all federal funding, including CWSRF capitalization grants, and are not altered in any way by this agreement. If there is a statement in this agreement that differs from a statement in a cross-cutting federal authority, then the federal authority will prevail.

6.2 Endangered Species Act and Essential Fish Habitat

1. ESA section 7 determinations are required for projects and activities whose cumulative CWSRF funding equals the amount of the capitalization grants awarded to DEQ.
2. DEQ has declined, at this time, to take delegation as the designated, non-federal representative for ESA and EFH consultation. All ESA consultations must be conducted through a lead federal agency, such as the EPA.
3. The United States Fish and Wildlife Service or the National Marine Fisheries Service, collectively known as the "Services," must concur if the lead federal agency determines that the project "May Affect" ESA-listed species or their critical habitat, or "May Adversely Affect" EFH, based on the Services' respective jurisdictions.

6.3 Disadvantaged Business Enterprises (DBE)

DEQ will ensure that all DBE requirements detailed in 40 CFR Part 33 are met. These include, but are not limited to, the following:

1. DEQ will ensure that all sub-recipients include in all their contracts the DBE term and condition in Appendix A to Part 33 in Title 40 CFR.

2. DEQ will submit a completed EPA Form 5700-52A (*DBE Utilization Under Federal Grants, Cooperative Agreements, and Interagency Agreements*) to the DBE Coordinator, U.S. Environmental Protection Agency, Grants Management Branch, semi-annually within thirty (30) days after the end of the first and fourth federal fiscal quarter (i.e., reports are due by April 30 and October 31) for all projects whose funding equals the cumulative amount made directly available from all CWSRF capitalization grants awarded to DEQ.
3. DEQ will ensure form 6100-4 is completed and submitted as part of the bid/proposal by the loan recipient's prime contractor.
4. DEQ will ensure form 6100-3 is provided to and completed by each DBE subcontractor and submitted as part of the bid/proposal.
5. DEQ will ensure form 6100-2 is provided to each DBE subcontractor by the loan recipient's prime contractor.

Section 7.0 Program Documents and Reports

7.1 Intended Use Plan

DEQ must prepare an annual plan in accordance with OAR 340-054-0025 that identifies the intended uses of CWSRF program funds and describes how those uses support the goals of the CWSRF. DEQ will ensure all IUP requirements in 40 CFR §35.3150 are addressed and will develop the plan in a format and manner agreed to by EPA. Items generally in an IUP include, but are not limited to, the following:

- All publicly-owned treatment works projects, non-point source control, and national estuary management activities on the State's project priority list that are eligible for CWSRF assistance.
- Projects eligible for funding if additional funds become available.
- Short-term and long-term CWSRF program goals and objectives.
- Information on the types of activities to be supported, including eligible categories of costs.
- Assurances and specific proposals on how the State intends to meet the requirements of CWA section 602(b) (3) (binding commitments), CWA section 602(b) (4) (expeditious and timely expenditures), and 40 CFR §35.3140 (environmental review requirements).
- The criteria and method for distribution of CWSRF funds.
- A description of the criteria and method the State will use to select projects or programs to be funded.
- A summary of the procedures allowing public comment and review of the IUP.
- The anticipated sources and uses of all of the fiscal year's funds will be identified.
- A description of how the CWSRF funds will be allocated among the projects consistent with the amount available, the financial assistance needed, all applicable state and federal laws and the procedures defined in OAR 340-054-0025(6).
- Projects receiving funding from the Green Project Reserve as allowed or required.
- Projects receiving additional subsidization, such as principal forgiveness, whenever additional subsidization is allowed or required.

7.2 Annual Report

DEQ must submit an annual report to EPA by no later than September 30th of each year this agreement is in effect. DEQ will include in the annual report the information as specified in the IUP on the actual use of funds and how DEQ has met the goals and objectives for the previous state fiscal year (July 1 through June 30) as identified in the previous IUP. The annual report must identify loan recipients, loan amounts, loan terms, schedules for commitments of funds, and projects by funding categories such as planning, small communities and expedited loans.

The annual report will also describe the extent to which the existing CWSRF financial operating policies, alone or in combination with other State financial assistance programs, will:

- Ensure the long term financial integrity of the Water Pollution Control Revolving Fund,
- Maintain compliance with the CWA, and
- Contain a one page description of the environmental benefits from the Clean Water Benefits Reporting System for every loan agreement signed during the fiscal year or an aggregate summary of this data.

DEQ will demonstrate in the annual report that it has:

- Reviewed all CWSRF funded section 212 projects in accordance with the applicable SERP.
- Deposited the match on or before the date on which each quarterly grant payment was made.
- Made binding commitments to provide assistance equal to 120 percent of the amount of each grant payment within one year after receiving the grant payment.
- Expended all funds in the fund in an expeditious and timely manner.

7.3 Program Evaluation Report

EPA CWSRF program staff will meet with DEQ CWSRF program staff at least annually and conduct a program evaluation as described in Section 9.3 of this agreement. EPA will provide DEQ with a copy of the draft program evaluation report in a timely manner for review and comment prior to issuing a final program evaluation report. The program evaluation report will address program highlights, required program and financial elements, and any required or recommended actions.

Section 8.0 Financial Administration

8.1 CWSRF Account and Purpose

Pursuant to 40 CFR §35.3120, DEQ certifies that the CWSRF account is a separate financial account and acknowledges the account will be used solely for purposes identified herein. Furthermore, DEQ will utilize the CWSRF account in accordance with OAR 340-054-0020, -0055, -0060, and -0065. The account will be used to:

- Award loans
- Refinance existing debt obligations

- Guarantee or purchase insurance for local debt obligations
- Guarantee SRF debt obligations
- Provide loan guarantees for “sub-State revolving funds”
- Earn interest on fund accounts
- Pay CWSRF administrative expenses

8.2 CWSRF Account Structure and Use

DEQ’s CWSRF loan program financial accounts are managed by the Office of the State Treasurer. These accounts include:

- Oregon Water Pollution Control Revolving Fund
- State Match Reserve Account
- Water Pollution Control Administration Fund

Oregon Water Pollution Control Revolving Fund

The Oregon Water Pollution Control Revolving Fund is the program’s primary account. This account receives funds from four sources: the annual capitalization grant, loan repayments (including accrued interest), investment earnings, and state match funds. DEQ disburses loan funds from this account to borrowers as requested during the project period. Cumulative disbursements maintain the proportionality of at least one-sixth state funds. The federal share of the disbursements is drawn through the federal electronic Automated Standard Application for Payments cash draw system as the loan disbursement is prepared.

The CWA allows DEQ to allocate up to four percent of all grants on a cumulative basis for CWSRF program administrative costs. Instead, DEQ loans its entire capitalization grant award to eligible projects. DEQ does not currently use the four percent for administrative purposes because OAR 340-054-0065(7) established an annual fee of 0.5 percent of the unpaid loan balance to cover program administrative costs. However, DEQ “banks” the four percent allowed for administrative costs with the intention of drawing it down, in accordance with EPA cash draw rules, from future total available funds, if needed.

State Match Reserve Account

The State Match Reserve Account is maintained within the Water Pollution Control Revolving Fund and contains the funding allocated to the CWSRF as state match for capitalization grants. The primary source of funds in this account comes from the Pollution Control Bond fund. The pollution control bonds are general obligation bonds backed by the full faith and credit of the State of Oregon.

When a federal grant payment is available according to the "Payment Schedule" in the capitalization grant agreement, DEQ must deposit an amount equal to at least 20 percent of the federal payment into the CWSRF from the State Match Reserve account. DEQ will either deposit into the CWSRF account or provide a State Line of Credit or similar financial arrangement in an amount equal to 20 percent of each grant payment on or before the date the quarterly grant payment is made available. If a State Letter of Credit is provided, this will be converted to cash at the same time that cash is drawn from federal monies.

Water Pollution Control Administration Fund

The Water Pollution Control Administration Fund is a separate account established for the 0.5 percent annual fee assessed on the unpaid balance of all loans, except planning loans. The funds in this account are only available to pay the costs of administering DEQ's CWSRF program, in accordance with EPA final guidance: *Guidance on Fees Charged by States to Recipients of Clean Water State Revolving Fund Program Assistance* published in the federal register on October 20, 2005.

8.3 Cash Draw Requirements

DEQ will draw federal funds for previously incurred eligible costs in accordance with the agreed upon schedule included in the grant agreement and in accordance with DEQ's business office procedures. Money will be transferred to the Oregon CWSRF from the U.S. Department of Treasury in accordance with EPA's CWSRF procedures. Forecasts of federal cash draws will be based on projected construction dates, the history of disbursement timing on prior projects, and projected project delays. DEQ agrees to keep CWSRF cash draws separate from those of any other programs.

8.4 Grant Payment Schedule

The schedule of payments to DEQ is based on the projected schedules for disbursements included in the IUP and the capitalization grant agreement. DEQ agrees to request grant funds from EPA in accordance with the negotiated payment schedule, but no sooner than payments are needed for all authorized types of assistance.

All payments will be made no later than the earlier of eight quarters after the award of the capitalization grant agreement or twelve quarters after the date the funds are allotted to Oregon. All grant funds received from EPA will be deposited into the Water Pollution Control Revolving Fund.

If loan disbursements are projected to exceed available funds, a revised payment schedule will be negotiated between DEQ and EPA. DEQ may request adjustments to the payment schedule as necessary.

8.5 Disbursement Process

DEQ will disburse funds from the CWSRF in accordance with State laws and procedures and the following process.

CWSRF DISBURSEMENT PROCESS

STEP	AUTHORITY	ACTION
1	Contractor	Bills borrower (borrower responsible for paying contractor by due date).
2	Borrower	Sends DEQ disbursement request form for reimbursement with expenditure documentation.
3	DEQ CWSRF Project Officer and Project Engineer	Reviews and approves disbursement request and supporting documentation.
4	DEQ Administrative Staff	Sends request to CWSRF loan specialist.
5	DEQ CWSRF Loan Specialist	Reviews disbursement requests and forwards them to the business office for processing.
6	DEQ Business Office	Sends Automated Clearinghouse request to US Treasury for funds from capitalization grant as applicable. Prepares accounting entry requesting funds be transferred to borrower
7	U.S. Treasury	Makes an Automated Clearinghouse transfer to U.S. Bank (Oregon)
8	Executive Department	Completes disbursement of funds to borrower in a manner agreed to with the borrower: <ul style="list-style-type: none"> • Transfer to borrower's account with state treasurer's office, • Direct deposit, or • Issue warrant (i.e., check)
9	DEQ Business Office	Sends hard copy of transaction to CWSRF loan specialist.
10	DEQ CWSRF Loan Specialist	Notifies borrower of funds transfer (usually by e-mail).

8.6 Repayment to the Fund

DEQ will require each CWSRF borrower to establish a dedicated revenue source for repayment of their loan. Each borrower will be required to begin payment of principal and interest within one year of the date of initiation of operations or project completion. This requirement will be implemented through a condition of the loan agreement. DEQ will ensure that all principal and interest repayments on loans are credited directly to the CWSRF.

Section 9.0 Program Oversight

9.1 Federal Compliance Audit

Under the federal Single Audit Act (SAA), the Oregon Office of the Secretary of State, Audits Division conducts an annual federal compliance audit of DEQ that includes the CWSRF loan program operations in any year the Audits Division determines that the CWSRF is a major program and needs to be included, in accordance with SAA and OMB Circular A-133. When the Audits Division includes the CWSRF program in its annual audit, the audit will be based on procedures set forth in the most current version of *OMB Circular A-133, Compliance Supplement* specific to programs funded by the Environmental Protection Agency. This audit follows auditing standards generally accepted in the United States and the standards applicable to financial audits specified in the *Governmental Auditing Standards*. The audit report is completed within one year of the state fiscal year-end (June 30th).

9.2 Independent Audit

DEQ agrees to an independent audit conducted annually by the Oregon Office of the Secretary of State, Audits Division of the CWSRF financial statements and accompanying notes. If the Audits Division is unwilling or unable to complete this audit, the CWSRF loan program will solicit proposals from private accounting firms to complete this work. The independent audit will result in a formal opinion as to if the CWSRF financial statements fairly state the financial position and results of the program operation for the previous fiscal year. This audit report will be provided to EPA within 30 days of its receipt from the Audits Division. EPA will provide the Audits Division with the most recent program evaluation report upon request.

9.3 EPA Program Evaluation

DEQ and EPA will coordinate together and plan the annual CWSRF program review process. EPA will notify DEQ if a more frequent review of DEQ's CWSRF program is needed to comply with federal regulations, and will coordinate with DEQ for that review. EPA will propose to DEQ a program evaluation agenda that includes specified activities, time and place, and program documents to be made available during the review.

9.4 CWSRF Records

DEQ will receive and review project documents from borrowers. These project documents, together with the DEQ's review memos, final decision documents and various completed checklists will be filed in an official project file maintained by DEQ. DEQ will retain project files and other CWSRF files in accordance with DEQ's record retention schedule and federal regulations pursuant to 40 CFR 31.42. DEQ may arrange for the storage of appropriate project files as needed while complying with all state and federal record retention regulations.

Public access to records located in State offices will be in accordance with State law. DEQ will make records available to EPA for review upon reasonable notice.

Section 10.0 Agreement Modification and Execution

10.1 Significant Modifications

Significant modifications to this agreement can only be made if jointly agreed to by the DEQ Director and the EPA Region 10, Regional Administrator.

10.2 Minor Modifications

Minor modifications to this agreement can only be made if jointly agreed to by the DEQ Water Quality Division Program Administrator and the EPA Region 10, Office of Water and Watershed Director.

10.3 Approval and Effective Date

This Operating Agreement shall take effect upon approval by the DEQ Director and the Environmental Protection Agency, Region 10, Regional Administrator.

In witness whereof, the parties execute this agreement:

FOR THE STATE OF OREGON:

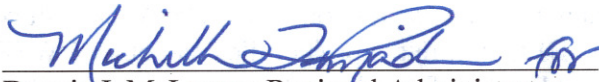


Dick Pedersen, Director
Oregon Department of Environmental Quality

8-21-2010

Date

FOR THE U.S. ENVIRONMENTAL PROTECTION AGENCY:



Dennis J. McLerran, Regional Administrator
U.S. Environmental Protection Agency, Region 10

9/9/10

Date

Appendix A: Attorney General's Certification

JOHN R. KROGER
Attorney General



MARY H. WILLIAMS
Deputy Attorney General

DEPARTMENT OF JUSTICE GENERAL COUNSEL DIVISION

June 14, 2010

Attorney General's Certification

REGARDING

CLEAN WATER STATE REVOLVING FUND

I hereby certify that the Oregon Department of Environmental Quality, as an agency of the State of Oregon, has the legal authority to participate in the Clean Water State Revolving Fund under Title VI of the federal Clean Water Act. I further certify that the state legislation establishing Oregon's version of the State Revolving Fund under Oregon Revised Statute 468.427 as the Water Pollution Control Revolving Fund and the powers it confers are consistent with state law, and that Oregon, through the Department of Environmental Quality, may legally bind itself to the terms of a capitalization grant agreement with the federal government.

Sincerely,

A handwritten signature in black ink, appearing to read "Larry Knudsen".

Larry Knudsen
Assistant Attorney General
State of Oregon

#1532525

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